

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

DIANNA WINTERMUTE, :

Plaintiff, : Case No. 3:07-cv-209

-vs- : District Judge Thomas M. Rose
Chief Magistrate Judge Michael R. Merz

: COMMISSIONER OF
SOCIAL SECURITY :

Defendant. :

ORDER ADOPTING REPORT AND RECOMMENDATIONS

The Court has reviewed the Report and Recommendations of United States Magistrate Judge Michael R. Merz (Doc. #15), to whom this case was referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) expired on February 27, 2008, hereby ADOPTS said Report and Recommendations.

Accordingly, the Court GRANTS IN PART the Commissioner's Decision with Remand to the Agency to the extent that his decision that Plaintiff is not disabled to the extent that his decision that Plaintiff is not disabled be REVERSED, but DENIES to the extent that it seeks remand for additional administrative proceedings. This matter shall only be remanded to the Commissioner for the payment of benefits consistent the Act.

February 29, 2008.

s/THOMAS M. ROSE

Thomas M. Rose
United States District Judge